

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 42 - Years of Service 1965 - 2007*

## MINUTES

**MAY 23, 2007 8:30 A. M.**

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

### BOARD of DIRECTORS

MICHAEL WINN, **PRESIDENT**  
LARRY VIERHEILIG, **VICE PRESIDENT**  
CLIFFORD TROTTER, **DIRECTOR**  
ED EBY, **DIRECTOR**  
JAMES HARRISON, **DIRECTOR**

### PRINCIPAL STAFF

BRUCE BUEL, **GENERAL MANAGER**  
LISA BOGNUDA, **ASSIST. ADMINISTRATOR**  
DONNA JOHNSON, **BOARD SECRETARY**  
JON SEITZ, **GENERAL COUNSEL**  
DAN MIGLIAZZO, **UTILITY SUPERVISOR**

00:00:00

#### A. CALL TO ORDER AND FLAG SALUTE

President Winn called the meeting to order at 9:00 a.m. and led the flag salute.

#### B. ROLL CALL

At Roll Call, all Board members were present.

00:00:51

#### C. CONSENT AGENDA

##### C-1) APPROVE WARRANTS

##### C-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of May 9, 2007, Meeting

Minor changes to C-6, E-2, E-3, E-4, E-5, and E-6.

##### C-3) AUTHORIZE STAFF TO FORWARD DRAFT PARKS MEMORANDUM OF UNDERSTANDING TO SLO COUNTY

##### C-4) APPROVE CRAIG ANNEXATION PROPERTY TAX TRANSFER PROPOSAL PROPOSED BY SLO COUNTY

###### RESOLUTION NO. 2007-1014

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUE  
AND ANNUAL TAX INCREMENT FROM COUNTY OF SAN LUIS OBISPO  
TO NIPOMO COMMUNITY SERVICES DISTRICT  
FOR ANNEXATION NO. 28 (VINTAGE HOMES)

##### C-5) AMEND CANNON WATER AND SEWER MASTER PLAN AGREEMENT TO EXTEND TIME AND DELETE INCORPORATION OF SUPPLEMENTAL WATER PROJECT RECOMMENDATIONS

##### C-6) AUTHORIZE EXECUTION OF AGREEMENT WITH GROUND UP CONSTRUCTION TO PERFORM CONSTRUCTION MANAGEMENT SERVICES FOR BLACK LAKE WWTF LINER REPLACEMENT PROJECT

##### C-7) CONTINUE CONSIDERATION OF CHESTNUT VILLAS INTENT-TO-SERVE LETTER APPLICATION FOR MIXED USE COMPLEX AT 166 & 186 NORTH THOMPSON AVENUE TO AUGUST 22, 2007, BOARD MEETING

##### C-8) ACCEPT WATER AND SEWER IMPROVEMENTS FOR TRACT 2513 AND TRACT 2514

RESOLUTION NO. 2007-1015  
A RESOLUTION OF THE BOARD OF  
DIRECTORS OF THE NIPOMO COMMUNITY  
SERVICES DISTRICT ACCEPTING THE  
WATER AND SEWER IMPROVEMENTS  
FOR TRACT 2513 (NEWDOLL)

RESOLUTION NO. 2007-1016  
A RESOLUTION OF THE BOARD OF  
DIRECTORS OF THE NIPOMO COMMUNITY  
SERVICES DISTRICT ACCEPTING THE  
WATER AND SEWER IMPROVEMENTS  
FOR TRACT 2514 (NEWDOLL)

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## C. CONSENT AGENDA (continued)

Director Trotter asked to have a discussion about using a construction manager for projects agendized for a future meeting. Upon motion by Director Trotter and seconded by Director Vierheilig, the Board unanimously approved the Consent Agenda, as amended. There was no public comment. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Trotter, Vierheilig, Eby, Harrison, and Winn	None	None

00:17:40

## D. PRESENTATIONS AND PUBLIC COMMENT

## D-1) DR. BRAD NEWTON OF SAIC

Dr. Brad Newton of SAIC made a presentation of 2007 Groundwater Storage Update and Report on Coastal Monitoring Well Water Quality Results

With testing of sentinel wells along the coast line, it was determined that there is no evidence of seawater intrusion. There has been little or no change in the water quality since 1975.

The following members of the public spoke:

Ian Wallace, NCSD customer at Black Lake development – asked about the frequency of the monitoring of the sentinel wells. He suggested testing the wells more often to see if the wells were artesian throughout the year.

Todd Cralley, reporter from the Adobe Press asked about the location of the sentinel wells near Oso Flaco.

Dr. Newton answered that the wells are about 150 feet from the high tide line due west of ConocoPhillips. In answer to the frequency question, Dr. Newton stated that it is designed to be tested twice each year.

There was no action needed.

The Board thanked Dr. Newton for his informative presentation.

01:24:07

## D-2) SHAYNE MORGAN OF DAVID TAUSSIG &amp; ASSOCIATES

Shayne Morgan of David Taussig and Associates gave a presentation regarding Community Facilities Funding for District projects. He reviewed a booklet given to the Board at the meeting. (A copy is available for viewing in the District office.) He described different ways Community Facilities Districts could be formed. The Board asked questions about the process and Mr. Morgan explained.

There was no action needed. Mr. Buel suggested that the concept could be explored further at the strategic planning workshop to be held in the fall.

The Board thanked Mr. Morgan for his presentation.

02:10:19

## D-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT &amp; COMMUNITY INTEREST

The directors announced the following items of District & community interest.

Director Vierheilig

Stated that he spoke to members of Oceano Community Services District about possibly joining efforts for a desalination project for an economy-of-scale that would be beneficial to all concerned.

Director Harrison

SCAC voted to ask the County to provide \$1,000,000.00 to the construction of the Frontage Road.

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D-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST (continued)

Director Winn

WRAC meeting in San Luis Obispo May 23, 2007, at 3:00 p.m. concerning Integrated Regional Water Management Plan.

TDC committee meeting at the same time in the government building.

May 24, 2007, 8:45 a.m. Planning Commission meeting to recommend that the Board of Supervisors to certify the Level of Severity III for the Nipomo Mesa.

Bruce Buel, General Manager, announced the Special Meeting for May 30, 2007, 9:00 a.m. with the following information to be discussed:

- Confirming recruitment of District Engineer
- Water and Sewer Master Plan
- FY07-08 Budget Workshop

02:16:21

D-4) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

02:16:50

E. ADMINISTRATIVE ITEMS

E-2) CONSIDER AUTHORIZING EXECUTION OF OUTSIDE USER AGREEMENT FOR VINTAGE HOMES TRACT 2560 PROPERTY AT WILLOW AND VIA CONCHA (FORMERLY CRAIG FAMILY TRUST)

This item was taken before Item E-1 to accommodate Ms. Florence.

Bruce Buel, General Manager, described the project at Willow Road and Via Concha Road which is outside the District boundary. A draft Outside User Agreement for water and solid waste services is prepared for review by the Board and Vintage Homes, LLC (owner of the project).

Jon Seitz, District Legal Counsel, reviewed the agreement.

Carol Florence, representative for Vintage Homes, LLC, asked the Board for favorable consideration to approve the agreement.

The Board discussed the agreement. The Board agreed that this was the last outside user to be approved until a supplemental water supply is delivered.

Mr. Seitz explained that the agreement runs with the land for any future buyers of the project. The perceived benefit to the District approving this agreement includes that no mutual water company would be formed that may draw water from the same groundwater basin that currently supplies the District. Also, the owners would be paying fees that include annexation fees and supplemental water capacity fees. The water users would be under the same terms and conditions (including conservation measures) as other water customers within the District. Until the annexation is complete, the water customers within the project will pay 1.5 times the bi-monthly rates and charges as other District customers pay. Director Eby stated that the rest of the District is being put at risk.

Mr. Seitz explained that a mutual water company is not bound to pay supplemental water fees.

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- E-2) CONSIDER AUTHORIZING EXECUTION OF OUTSIDE USER AGREEMENT FOR VINTAGE HOMES TRACT 2560 PROPERTY AT WILLOW AND VIA CONCHA (FORMERLY CRAIG FAMILY TRUST) (continued)

Upon motion by Director Vierheilig and seconded by Director Harrison, the Board approved Resolution 2007-1017, as amended. Vote 4-1 with Director Eby voting no.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilig, Harrison, Trotter, and Winn	Director Eby	None

**RESOLUTION NO. 2007-1017  
A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
APPROVING AN OUTSIDE USER AGREEMENT  
FOR WATER AND SOLID WASTE SERVICES TO TRACT 2560**

02:43:10

- E-1) RECEIVE BLACK LAKE WWTF POND #3 LINER REPLACEMENT DESIGN AND AUTHORIZE BID SOLICITATION FOR SUBSEQUENT BOARD REVIEW

Bruce Buel, General Manager, explained the receipt of the Black Lake WWTF Pond #3 line replacement design. He introduced Jim Baer from Garing, Taylor and Associates.

Jim Baer, representing GTA, described the project to replace the liner at Black Lake. He proposed two places to dispose of the bio-solids created at Black Lake. One place would be the Cold Canyon Land Fill at a cost of \$88.00 per ton, which would total about \$150,000. The other is to transport the bio-sludge to the Southland WWTF drying beds, disk into the 10 acres and possibly plant crops (such as alfalfa or wildflowers) to absorb the nutrients. This could possibly be used to dispose of all District bio-solids.

Mr. Buel thanked GTA for its creativity. He introduced Rob Carnes, from Ground Up Construction Management Co.

Director Vierheilig stated that the price of the poly liner seems low.

The following members of the public spoke

Bill Nelson, NCSD resident from Black Lake – stated that the cost of \$200,000 will need to be funded. He suggested that some residents may want to pay the approx. \$400 per household with cash to avoid the interest on the loan.

Upon motion by Director Vierheilig and seconded by Director Trotter, the Board unanimously agreed to authorize the bid solicitation with both options for sludge disposal. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilig, Trotter, Eby, Harrison, and Winn	None	None

02:29:04

- E-3) CONSIDER ADOPTION OF REVISIONS TO PERSONNEL POLICY

Bruce Buel, General Manager, reviewed the history of the presentations leading to the revisions to the Personnel Policy. The Board discussed some minor changes.

Dan Migliazzo, District Utility Supervisor, discussed the memo included in the Board packet. There was no Board response to his comments.

There was no public comment.

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**E-3) CONSIDER ADOPTION OF REVISIONS TO PERSONNEL POLICY**

Upon motion by Director Vierheilig and seconded by Director Trotter, the Board unanimously approved Resolution 2007-1018, as amended. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilig, Trotter, Eby, Harrison, and Winn	None	None

**RESOLUTION NO. 2007-1018****A RESOLUTION OF THE BOARD OF DIRECTORS****OF THE NIPOMO COMMUNITY SERVICES DISTRICT****AMENDING AND RESTATING THE DISTRICT'S PERSONNEL POLICIES AND PROCEDURES**

02:58:04

**E-4) CONSIDER EUCALYPTUS GARDENS INTENT-TO-SERVE APPLICATION FOR 81-UNIT MULTI-FAMILY COMPLEX AT 680 HILL STREET**

Bruce Buel, General Manager, reviewed the request from Kathleen Fairbanks for water and sewer service to an 81-unit development at 680 Hill Street.

Jon Seitz, District Legal Counsel, explained low-income housing priority.

The Board had questions about allocation allotments for low-income housing and possibly allotting some of the single-family allotments to this project.

The following members of the public spoke:

Ignacio Rincon, with Global Premier representing the applicant, explained that they will soon be coming to an agreement with the County concerning the low-income status.

Mr. Buel suggested amending the conditions to include that the Intent-to-Serve letter will be void if land use is other than low-income or very low income.

Upon motion by Director Vierheilig and seconded by Director Trotter, the Board unanimously accepted staff's recommendation to allocate water to the project in accordance with the District's water allocation policy and issue an Intent-to-Serve letter with the conditions listed in the Board letter, as amended. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilig, Trotter, Eby, Harrison, and Winn	None	None

03:14:49

**E-5) CONSIDER BUTTERFLY LANE INTENT-TO-SERVE APPLICATION FOR 8-UNIT SUBDIVISION AT 365 BUTTERFLY LANE**

Bruce Buel, General Manager, reviewed the request from Greg Nester Construction for water and sewer service to an 8-unit single-family residential subdivision. The project was originally approved June 23, 2007, as a multi-family development.

The following member of the public spoke

Greg Nester, developer for the project – thanked the Board for clarifying the project type. It is near completion.

Upon motion by Director Vierheilig and seconded by Director Trotter, the Board unanimously agreed to allocate 2.4 AFY of water to Tract 2715 and re-issue the Intent-to-Serve letter with the conditions listed in the Board letter. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilig, Trotter, Eby, Harrison, and Winn	None	None

The Board considered the Closed Session items next.

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03:36:09

**I. CLOSED SESSION ANNOUNCEMENTS**

Jon Seitz, District Legal Counsel, announced the following items to be heard in Closed Session.

1. CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION  
GC§54956.9 SMVWCD VS NCSD SANTA CLARA COUNTY CASE  
NO. CV 770214 AND ALL CONSOLIDATED CASES.
2. CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION  
GC§54956.9 MARIA VISTA VS. NCSD CASE NO. CV 040877, MARIA  
VISTA VS. NCSD CASE NO. CV 061079, AND MARIA VISTA VS. LINDA  
VISTA FARMS, NCSD ET AL CASE NO. CV 040150;
3. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION  
PURSUANT TO GOVERNMENT CODE SECTION 54956.9; NCSD VS.  
SLO COUNTY (CASE NO. CV 070066)
4. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION  
PURSUANT TO GOVERNMENT CODE SECTION 54956.9; MARIA  
VISTA ESTATES V. NCSD ET AL (CASE NO. ND07-10362RR IN  
UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT,  
NORTHERN DIVISION

03:37:15

**J. PUBLIC COMMENT ON CLOSED SESSION ITEMS**

There was no public present to comment.

**K. ADJOURN TO CLOSED SESSION**

The Board adjourned to Closed Session at 12:20 p.m.

**L. OPEN SESSION**

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

AT 1:03 p.m. the Board came back into Open Session.

Jon Seitz, District Legal Counsel, announced that the Board heard an update on Items 2 through 4 listed above. There was no reportable action.

03:38:00

**F. MANAGER'S REPORT**

Bruce Buel, General Manager, presented the report as written. He reviewed a letter from the Air Pollution Control District concerning a study of air-quality impacts from off-road vehicle activity at the Oceano Dunes State Vehicle Recreation Area. There was some Board discussion.

03:45:44

**G. COMMITTEE REPORTS**

There was no committee report.

03:46:02

**H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS**Director Vierheilig

He stated that the Consumer Confidence Report contains out-of-date data. (Mr. Buel explained that for certain constituents, we are on a five-year testing cycle for some, three-year for some, annual for some and weekly for others. We report the most recent data for the prescribed constituent.) President Winn asked if the Board could receive a list of the reporting intervals for the various constituents.

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H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS (continued)

Director Trotter

He stated that while the District was connecting the Black Lake water system to the Town system, several things went wrong but it is working now.

Director Eby

There was water taken from a fire hydrant with a tanker truck and being used outside the District boundary. (Mr. Buel assured the Board that the office contacted the user and obtained a deposit and appropriate billing information. This type of usage will be discussed when the emergency water ordinance is considered.)

Director Winn

He stated that he attended a class at UCLA. There will be a report delivered to a future meeting.

He stated that he attended the CSDA seminar in Sacramento, as well as did Director Vierheilig and Mr. Buel.

Saturday, May 19, 2007, the Coastal Version of the 2050 Planning Forum was held. Printed information will be delivered to the District.

ADJOURN

President Winn adjourned the meeting at 1:27 p.m.

➤ **THE FOLLOWING REGULAR BOARD MEETING IS JUNE 13, 2007.**

**TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Adopt Allocation Ordinance
- FY07-08 Budget Hearing
- FY07-08 Solid Waste Liens
- FY07-08 Black Lake Street Light Assessments
- FY07-08 Landscape Maintenance District #1 Assessments

➤ **THE FOLLOWING SPECIAL BOARD MEETING IS MAY 30, 2007.**

**TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- FY07-08 Budget Workshop
- Future Water Projects Consideration